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## TAXPAYER ADVOCATE

### Background of the Position

The Taxpayer Advocate position was created in 1995. The purpose/mission/role of the Taxpayer Advocate (Advocate) has been to assist taxpayers who have questions about Maine tax law; concerns about their tax situation as it relates to some aspect of Maine tax law; are confused about their tax situation; or disagree with some action by Maine Revenue Services (MRS), usually an assessment of tax or collection of an amount due.

From 1995 to June 30, 2012, the Advocate had been employed by MRS and had reported directly to the State Tax Assessor or Legal Counsel. This allowed the Advocate to function as independently as possible from MRS operating divisions.

**Legislative changes** by the One Hundred and Twenty-Fifth Legislature (PL 2011, c. 694) resulted in the following provisions in 36 MRSA § 151-C which became effective **July 1, 2012**.

1. Appointment. The Commissioner of Administrative and Financial Services shall hire the taxpayer advocate as an employee of the bureau. The taxpayer advocate need not be an attorney.
2. Duties and Responsibilities. The duties and responsibilities of the taxpayer advocate are to:
  - A. Assist taxpayers in resolving problems with the bureau;
  - B. Identify areas in which taxpayers have problems in dealings with the bureau;
  - C. Propose changes in the administrative practices of the bureau to mitigate problems identified under paragraph B;
  - D. Identify legislative changes that may be appropriate to mitigate problems identified under paragraph B.
3. Annual Report. Beginning in 2012, the taxpayer advocate shall prepare and submit by August 1st an annual report of activities of the taxpayer advocate to the Governor, the assessor and the joint standing committee of the Legislature having jurisdiction over taxation matters.
4. Investigation. The taxpayer advocate may investigate complaints affecting taxpayers generally or any particular taxpayer or group of taxpayers and, when appropriate, make recommendations to the assessor with respect to these complaints. The assessor shall provide a

formal response to all recommendations submitted to the assessor by the taxpayer advocate within 3 months after submission to the assessor.

5. Response. The assessor shall establish procedures to provide for a formal response to all recommendations submitted to the assessor by the taxpayer advocate.

**Historically**, the Advocate has worked with taxpayers concerning all taxes and programs administered by MRS, including income tax, withholding tax, sales and use tax, property tax, tax and rent (Circuit Breaker) and the Homestead Exemption.

Taxpayer problems or concerns reach the Advocate from many different sources - the Governor's constituent services staff; taxpayers or their representatives; Legislators or members of Legislative staff; staff from Maine's Congressional delegation; MRS staff - compliance (collection), income tax, sales and use tax and property tax; the Office of the federal Taxpayer Advocate; and from a fairly new position (October 2011) the Small Business Advocate for the Office of the Secretary of State. That position was formed as part of PL 2011, c. 304, "An Act To Ensure Regulatory Fairness and Reform," signed into law by Governor LePage on June 13, 2011.

When reviewing a case, the Advocate is bound by the same provisions of Maine tax law, including taxpayer confidentiality laws, as any other MRS employee. The role of the Advocate is not intended to be a substitute for or an alternative to the MRS collection process and is not a substitute for or a step in any appeals process.

From time to time, a taxpayer with a tax problem may ask a tax examiner or a tax section manager if there is someone else available to talk to about the case. Often these types of inquiries are referred to the Advocate. The Advocate reviews the tax issues involved, discusses the case with staff from the applicable tax division if need be and may make recommendations as to how the case might be resolved. Although the Advocate may sometimes become quite involved in a tax matter, the Advocate does not take over the management of the case. If appropriate, the Advocate advises taxpayers about payment plans and offers in compromise.

**Pot Pourri** Paul Harvey - "*The Rest of the Story*"; TWIMC; No Magic Wand